

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE:	§	
CHRISTOPHER MATTHEW	§	CASE NO. 07-34178-H3-7
MICHAEL COLBERT,	§	(CHAPTER 7)
DEBTOR	§	
	§	

---

**Trustee's Amended Motion to Sell Property Free and Clear  
of All Liens, Claims and Encumbrances**

\*\*\*\*\*

**This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 20 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.**

**Represented parties should act through their attorney.**

\*\*\*\*\*

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

Rodney Tow, Trustee respectfully files this Amended Motion to Sell Property Free and Clear of all Liens, Claims, and Encumbrances. The Trustee files concurrently herewith a request for expedited consideration.

**Purpose of the Amendments**

1. Since obtaining the original order authorizing this sale, the Trustee has learned that there are several lis pendens or abstracts of judgment filed against this property. If all of the abstracts are determined to attach to this real estate, there will be no funds available for

general unsecured creditors. That is directly opposite of the representation in the original motion that unsecured creditors would receive a benefit. The Trustee believes he should proceed with the sale since there is a willing buyer but believes additional notice of these circumstances needs to be given to all creditors.

### **Jurisdiction and Venue**

2. This Court has jurisdiction over the subject matter of this Motion pursuant to 28 U.S.C. §1334(b). Venue is proper pursuant to 28 U.S.C. §§1408 & 1409. This is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(A) & (N).

### **Background**

3. On June 25, 2007, the Debtor filed for protection under Chapter 7 of the United States Bankruptcy Code.
4. Rodney Tow was appointed Chapter 7 Trustee, qualified, and continues to act in that capacity.
5. The Debtor scheduled the following parcel of real estate on schedule A:  
  
Lot 15, Block 3, Brentwood #5 Addition, City of College Station, County of Brazos, Texas more commonly known as 2301 Colgate Circle. (hereinafter the Colgate property).
6. The Debtor initially claimed a homestead exemption on the this property and the Trustee objected. An agreed order disallowing this exemption was signed by this court on October 10, 2007.
7. The Trustee has filed and this court has granted an Application to Employ Laura Patterson of Lone Star Realty as the real estate agent for the Estate. Ms. Patterson has

obtained various offers on this property including the offer which is the subject of this motion.

8. Worlds Savings holds a mortgage against this property and is owed approximately \$65,000.00.
9. The claims bar date ran on December 5, 2007. There are currently \$106,388.70 in unsecured claims. The Trustee has done only a preliminary review of the claims docket but anticipates that some objections to claims will be warranted.
10. The Trustee initially anticipated that this sale would provide a substantial payout to unsecured creditors based on the sales price and estimated mortgage payoff.
11. Since filing and obtaining approval for his original motion, it has come to the Trustee's attention that several abstracts of judgment have been filed against this property. The Trustee is in the process of working with the title company to review these abstracts to determine their validity and priority.
12. It appears unlikely that there will be any net equity for unsecured creditors once these secured creditors are satisfied. However the Trustee wishes to proceed with the sale as it is still the most effective means to yield the highest payout out for the greatest number of creditors.
13. The Trustee proposes to close on the sale under the original terms, pay the first mortgage and then take the proceeds into the estate.
14. The Trustee will then retain the remaining proceeds for administration to secured creditors on a priority basis once the abstracts have been fully examined.

15. Mr. Gustavo Roman and Ms. Maria Roman were previously approved as buyers by this court. Mr. and Mrs. Roman still wish to purchase the property under the original terms. The Roman offer is for cash and not dependent on third party financing. The earnest money contracts is attached as exhibits A.

**WHEREFORE, PREMISES CONSIDERED**, Rodney Tow, Trustee, moves this Court to grant this Amended Motion to Sell Property Free and Clear of All Liens, Claims and Encumbrances and for such other and further relief that he may be justly entitled.

Respectfully submitted this 13th day of February, 2008.

**TOW & KOENIG, PLLC.**

By: /s/Judy Torrance  
Judy Torrance  
SBA# 24028294  
26219 Oak Ridge Drive  
The Woodlands, Texas 77380  
281/681-9100 (Telephone)  
281/681-1441 (Telecopier)

Attorney for the Trustee

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served upon the parties below and all of the parties on the attached service list via electronic or first class U.S. mail unless otherwise indicated, proper postage affixed on this the 13th day of February, 2008.

Joe Gattis, PE '94  
Brazos County A&M Club  
PO Box 4  
College Station, Texas 77841

Gustavo and Johanna Roman  
13533 Alacia Ct.  
College Station, Texas 77485

Christopher Mathew Michael Colbert  
12218 Jones Rd Ste D 153  
Houston, TX 77070

Office of the US Trustee  
515 Rusk Ave., Ste 3516  
Houston, TX 77002

**Parties with abstracts filed against the subject property:**

World Savings  
Central Processing Center  
PO Box 659548  
San Antonio, Texas

SW Bell Yellow Pages, Inc. c/o  
Watkins & Watkins  
24 Greenway Plaza #1210  
Houston, TX 77046

Kelly Pesterfield  
PO Box 10174  
Knoxville, TN 37919

C-Bar Enterprises  
c/o Jeff Burns  
Youngkin & Associates  
PO Box 4806  
Bryan, Texas 77805

The State of Texas  
Office of the Attorney General  
PO Box 12548  
Austin, TX 78711-2548

Jack Colbert  
2850 CR 326  
Rockdale, Texas 76567

Nova Information Systems, Inc. c/o  
Hull & Associates, P.C.  
6200 Savoy Suite 440  
Houston, TX 77036

Berstein-Rein Advertising, Inc. c/o  
Schlanger Mills Mayer  
P.O. Box 570548  
Houston, TX 77257

Victory Packaging Corp. c/o  
Abby Golman  
Akin Gump Strauss Hauer & Field, LLP  
1700 Pacific Avenue, Suite 4100  
Dallas, TX 75201

Prescott Shields  
Address not listed on the abstract.

/s/Judy Torrance  
Judy Torrance

Label Matrix for local noticing  
0541-4  
Case 07-34178  
Southern District of Texas  
Houston  
Sun Sep 2 10:09:48 CDT 2007

Allen R Hodgkins Iii  
C/o Kenneth R Williams  
405 S Ferdinand St  
Baton Rouge, LA 70802

At&t Wireless  
Po ox 8229  
Aurora, IL 60572-8229

Best Publications  
2616 South Loop West # 300  
Houston, TX 77054-2672

Budget Truck Rental  
PO Box 403962  
Atlanta, GA 30384-3962

Charles Lee  
1423 North woodland Avenue  
Tucson, Az 85712-4142

Collectx Inc  
2101 west Ben white Blvd  
Austin, TX 78704-7516

David & Thuy Flosser  
8910 Six Rivers Lane  
Missouri City, TX 77459-6923

Enterprise Truck Rental  
12230 old Hempstead Rd.  
Houston, TX. 77092

First Premier Bank  
Po Box 5147  
Sioux Falls, SD 57117-5147

United States Bankruptcy Court  
PO Box 61288  
Houston, TX 77208-1288

Apex Title  
4996 Highway 6 North  
Houston, TX 77084-6905

Atmos Energy  
Po Box 78108  
Phoenix, AZ 85062-8108

Brian/ Deann Cameron  
901 winged Foot Dr  
college station, TX 77845-4450

C Bar Enterprises  
11683 Fm 2549  
Bryan, TX 77808-3999

Chase Bank  
41915 Independence  
Tampa, FL 33634

College station utilities  
utilities Dept  
Po Box 10230  
College Station, TX 77842-0230

EMC Mortgage  
Po Box 141358  
909 Hidden Ridge Dr # 200  
Irving, TX 75038-3826

Excel Landscaping  
739 Garden Acres Blvd  
Bryan, TX 77802-4006

First credit services, Inc  
one woodbridge center Ste 410  
woodbridge, N7 07095-1151

3s Kero Trans Llc  
C/o Josh Benn  
1021 University Dr E # 102  
college station, TX 77840-2185

Apollo Answering service  
Po Box 70919  
Houston, TX 77270-0919

Attorney Jack Dillard  
Po BOX192  
Bryan, TX 77806-0192

Bryan Texas Utilities  
Po Box 1000  
Bryan, TX 77805-1000

C Bar Enterprises  
2909 West Highway 21  
Bryan, TX 77803-1238

Citicapital commercial Corp  
4650 Regent Blvd  
Ste 200  
Irving, TX 75063-2481

Cox Communications  
Po Box 139004  
Tyler, TX 75713-9004

Easton Press  
c/o universal Fidelity Lp  
Po Box 941911  
Houston, TX 77094-8911

First American Bank  
701 Harvey Rd  
college Station, TX 77840-3546

Gas Tec  
1522 S Texas Ave  
Bryan, TX 77802-1015

Geico Insurance  
Geico Plaza  
Bethesda, MD 20810-0001

George M Cotton  
435 Louisiana Ave  
Baton Rouge, LA 70802-5820

Gexa Energy  
Po Box 659410  
San Antonio, Tx 78265-9410

Golds Gym  
125 E John carpenter Frwy  
# 1300  
Irving, TX 75062-2366

Harris county steel & Plumbing  
Po Box 218312  
Houston, TX 77218-8312

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 21126  
PHILADELPHIA PA 19114-0326

Jana L Foreman  
707 S Texas Ave Ste D 203  
college station, Tx 77840-1975

Jay GOSS  
4343 Carter Creek Pkwy # 100  
Bryan, TX 77802-4455

Juliet Thompson  
C/o Kenneth R Williams  
405 S Ferdinand St  
Baton Rouge, LA 70802

Kco Enterprises DbA Mr check c  
6176 N Hwy 6  
Houston, TX 77084-1304

Kelly Pesterfield  
C/o Josh Benn  
1021 University Drive East 102  
College station, TX 77840-2185

Lisa white Watkins  
24 Greenway Plaza #1210  
Houston, TX 77046-2486

Melissa Hage  
2199 Columbia Drive  
Auburn, AL 36830-4277

Midland Credit management  
5775 Roscoe Court  
San Diego, CA 92123-1356

Modern method Gunite  
3334 Brownie Campbell Road  
houston, TX 77086-1508

NCO Financial Systems  
Po Box 15740  
willmington, DE 19850-5740

National Auto Finance  
PO Box 7100  
Little Rock, AR 72223-7100

National van Lines  
2800 Roosevelt Rd  
Broadview, IL 60155-3771

Nationwide Insurance  
world Headquarters  
one Nationwide Plaza  
Columbus, OH. 43215-2220

Netspend Corporation  
Po Box 2136  
Austin, Tx 78768-2136

Nga Group, Inc.  
20 Timber Ridge Road  
North Brunswick, NJ 08902-5515

Nova information systems Inc  
C/o Hull & Associates Pc  
6200 Savoy Ste 440  
Houston, TX 77036-3324

Paymentech merchant services  
6010 Balcones Drive  
First Floor  
Austin, TX 78731-4270

Payne, Watson, Miller, Maliche  
Po Box 6900  
Bryan, TX 77805-6900

Pebble creek owners ASSo  
4500 Pebble Creek Parkway  
college station, TX 77845-8942

Penske Truck Leasing Co. Llp  
Po Box 7429  
Pasadena, TX 91109-7429

PhU Do  
1818 Cross Spring Drive  
sugar Land, TX 77479-6968

Providian  
Po Box 660548  
Dallas, TX 75266-0548

Retail Merchant Association  
902 Avenue J  
Lubbock, TX 79401-2719

Robin Eby  
3415 serene Grove  
San Antonio, TX 78247-2948



Sherman Acquisitions Llc  
Portfolio Recovery Associates  
Po Box 12914  
Norfolk, VA 23541-0914

Solomon & Solomon  
GTE Southwest  
Columbia circle  
Box 15019  
Albany, NY. 12212-5019

Spiegel  
Po Box 9204 old  
Bethpage, NY 11804-9004

Trailer Rents  
8222 North Freeway  
Houston, TX 77037-3608

Tx Dot  
125 E 11th st  
Austin, TX 78701-2409

US Trustee  
Office of the US Trustee  
515 Rusk Ave  
Ste 3516  
Houston, TX 77002-2604

Uhaul International  
C/o NCO Financial systems  
Po Box 15740  
Wilmington, DE 19850-5740

Usaa  
9800 Fredricksburg Rd  
San Antonio, TX 78288-0002

Usaa Auto & Property Insurance  
Po Box 659464  
San Antonio, TX 78265-9464

Verizon  
1135 E Chocolate Ave  
Hershey, PA 17033-1292

Yellow Book usa  
6300 C Street sw  
cedar Rapids, IA 52404-7470

capital one Bank  
Deposit Recovery Dept.  
PO Box 152409  
Irving, TX 75015-2409

consolidated communications  
Po Box 660035  
Dallas, TX 75266-0035

credit Protections  
1355 Noel Road suite 2100  
Dallas, TX 75240

southwestern Bell Yellow Pages  
C/o Watkins & Watkins  
24 Greenway Plaza #1210  
Houston, TX 77046-2486

southwestern Bell Yellow Pages  
Po Box 630052  
Dallas, TX 75263-0052

sudden Link communication  
PO Box 9037  
Addison, TX. 75001-9037

universal Fidelity LP  
Attn John Jackson  
Po Box 941911  
Houston, TX 77094-8911

wells Fargo Bank  
3000 Briarcrest Drive  
Bryan, TX 77802-3054

wells Fargo Banking services  
Po Box 14415  
Des Moines, IA 50306-3415

world savings  
4101 Wiseman Blvd  
San Antonio, TX 78251-4201

Christopher Mathew Michael Colbert  
12218 Jones Rd Ste D 153  
Houston, TX 77070-5267

Rodney D Tow  
Tow and Koenig PLLC  
26219 Oak Ridge Drive  
The Woodlands, TX 77380-1960

d/b/a Mr. Payroll C-Bar Enterprises, Inc.  
11683 FM 2549  
Bryan, TX 77808-3999

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Irs  
Po Box 24017  
Fresno, CA 93779

(d)Irs  
Po Box 24017  
Fresno, CA 93799

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Austin	(d)Providian	End of Label Matrix	
Last name unknown	Po Box 660548	Mailable recipients	83
	Dallas, Tx 75266-0548	Bypassed recipients	2
		Total	85